

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ILLUMINA, INC.,

Plaintiff,

v.

GUARDANT HEALTH, INC.; HELMY
ELTOUKHY; and AMIRALI TALASAZ,

Defendants.

C.A. No. 22-334-GWB-CJB

INTERIM STATUS REPORT

Pursuant to the Court’s Scheduling Order (D.I. 55) and the Stipulated Order to Extend Time (D.I. 72), Plaintiff Illumina, Inc. (“Plaintiff”) and Defendants Guardant Health, Inc., Helmy Eltoukhy, and AmirAli Talasaz (collectively, “Defendants”) jointly provide the following Interim Status Report on the nature of the matters in issue and the progress of discovery to date.

Procedural History

Plaintiff filed the above-captioned case on March 17, 2022 for correction of inventorship, trade secret misappropriation, and breaches of contract. The case was initially assigned to the Vacant Judgeship and referred to Magistrate Judge Christopher J. Burke for certain purposes (D.I. 34). The Court entered a Protective Order on August 4, 2022 (D.I. 53), and a Scheduling Order on August 17, 2022 (D.I. 55). On September 8, 2022, the case was assigned to Judge Gregory B. Williams, and on September 12, 2022 the case was referred to Judge Burke to hear and resolve all pre-trial matters up to and including expert discovery matters (but not including summary judgment motions, *Daubert* motions, pre-trial motions in limine or the pre-trial conference) (D.I. 62).

Status of Discovery

In accordance with the Scheduling Order, the parties have served Rule 26(a)(1) Initial Disclosures and Paragraph 3 Disclosures (D.Is. 59, 60, 65, 66). On October 3, 2022, pursuant to Paragraph 6, n.1 of the Scheduling Order, Defendants served an identification of “all documents that Helmy Eltoukhy or AmirAli Talasaz received or obtained in the course of their employment at Illumina and provided to Guardant during or after that employment” and repositories where such documents “are or previously were stored” (D.I. 68). Pursuant to Paragraph 6, n.1, Defendants also produced “unredacted copies of all briefing and transcripts” in the cases listed in that footnote. On October 14, 2022, pursuant to paragraph 6.a of the Scheduling Order, Plaintiff served an identification of the subject matter of its trade secrets at issue in this litigation (D.I. 73).

Fact discovery is ongoing and in its early stages. Both sides have served and responded to discovery requests and made initial document productions. The parties have begun to confer about the sufficiency of their disclosures and discovery responses, but do not currently have any disputes as to which they have reached an impasse, and are hopeful that any issues will be resolved without need for the Court’s assistance.

Pursuant to paragraph 7.e.i of the Scheduling Order, the parties are continuing to confer regarding limitations on the number of hours for deposition discovery. The parties respectfully propose to provide a further status update regarding deposition hours by January 20, 2023 or otherwise seek the Court’s assistance in conformity with the discovery procedures described in paragraph 7.g of the Scheduling Order.

Pending Motions

Defendants withdrew their Motion to Transfer on October 7, 2022 (D.I. 69). Defendants' Motion to Dismiss is pending before the Court (*see* D.Is. 29, 30, 41, 45). Oral argument on Defendants' Motion to Dismiss is scheduled for December 9, 2022 (D.I. 75).

Position on the Cases

The parties believe that the case should proceed according to the Scheduling Order entered by the Court. The parties do not currently have any issues or disputes with which they are in need of the Court's assistance.

Counsel are available at the Court's convenience should the Court have any questions.

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